National Asian American Coalition

October 31, 2013

Chair Mary Jo White
Commissioner Luis Aguilar
Commissioner Daniel Gallagher
Commissioner Kara Stein
Commissioner Michael Piwowar
Securities & Exchange Commission
10 F Street, NE
Washington, DC 20549

Comments of Asian American Community on SEC Proposal for Crowdfunding: Recipe for Disaster

"Since the SEC was first established by President Roosevelt almost eighty years ago (1934), it understood the importance of avoiding Ponzi-like schemes and protecting the vulnerable. Unfortunately, the SEC's proposed plan for equity crowdfunding could do more damage than any of Madoff's Ponzi schemes ever did, " Faith Bautista, President & CEO, National Asian American Coalition.

Dear Chair White and Commissioners Aguilar, Gallagher, Stein and Piwowar,

The National Asian American Coalition (NAAC) previously filed comments opposing the lifting of the ban on hedge fund advertising on July 2, 2013. We suggested that the minimum income for any hedge fund advertising should be restricted to families with $350,000 or more in annual income and $3 million or more in assets.

The SEC's proposed crowdfunding plan allowing internet sales by startups and small businesses of ownership stakes is potentially dangerous, even to sophisticated wealthy potential investors. Sadly, the SEC appears to have failed to consult with any nonprofits working with our nation's 130 million Asian American, Black, Latino or immigrant communities before drafting this proposed regulation.

The SEC crowdfunding plan is far more dangerous than unrestricted hedge fund advertising since it will affect the 70% of the Americans who live from paycheck to paycheck and allow them to invade their 401(k) for investment purposes. Specially, the SEC crowdfunding plan will allow any startup or small business, (even if it has no potential to ever return a profit) to raise $5,000 a year from the 70% of Americans who live from paycheck to paycheck. It would also allow highly risky startups and small businesses, including scams and sophisticated Ponzi schemes, to generate $10,000 a year from a typical family of four earning $100,00 in San Francisco.[1]

This ill-conceived Ponzi plan does not even require that a startup seeking funds verify compliance with what are admittedly loose investment limits. That is, a family that previously never earned more than $40,000 a year (with a breadwinner that has just lost her job and is now dependent o food stamps) could easily pretend that she has $250,000 in income and invest $25,000 a year. She could therefore invest her entire 401(k) retirement in a startup where the chances of success are less than one in a hundred.

The NAAC and many of its partners, particularly faith-based groups from the Black and Latino communities, will be seeking meetings with SEC Chair White and each of the commissioners to discuss their concerns during the week of November 12th.

We also urge the SEC to contact a broad range of minority-led, faith-based organizations, as well as government and corporate leaders, as to the advisability of creating a platform for what are, in effect, potentially sophisticated Ponzi schemes. For example, please contact the CEOs of Google,[2] Facebook and Apple, Consumer Financial Protection Bureau (CFPB) Director Richard Cordray, Federal Reserve Vice Chair Janet Yellen, the trustee suing Madoff, New York State Attorney General Eric Schneiderman and former New York State Attorney General Eliot Spitzer.

In addition, we urge the SEC to conduct hearings in at least four geographical areas of the United States, including at least one in the Silicon Valley, to secure community input on the advisability of this proposed crowdfunding plan. Many community groups we are working with from the Black, Latino and Asian American communities, including faith-based and traditional nonprofits, will seek to participate in such a hearing.

Special Vulnerability of New Immigrants and Need for Financial Education

Although the new SEC crowdfunding plan, pointed out above, endangers the 70% of Americans who live from paycheck to paycheck, “get rich quick” schemes are particularly attractive to unsophisticated new immigrants, a disproportionate number of whom are minorities or do not speak English well and often depend on their children for most financial decisions.

Although this proceeding does not address the lack of financial education among minorities and those living from paycheck to paycheck, we would also urge the SEC to join in a major effort to promote comprehensive financial education that could substantially diminish the likelihood of overreaching Ponzi-like schemes and other unsavory methods aimed at

[1] In San Francisco, families of four that earn up to $100,000 a year are eligible for HUD fair market rental subsidies.

[2] We will be meeting with Google to, in part, discuss this, as well as meetings with the CFPB, the Federal Reserve, Treasury and the Comptroller of the Currency, to secure their insight and input.

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financially unsophisticated Americans. We note, with interest, for example, that former SEC Chair Mary Schapiro is, to her great credit, a major advocate of financial education and hope that all SEC commissioners share her commitment and passion.[3]

<u>In conclusion</u> the NAAC and its many minority partners strongly support startups and small businesses. They can best survive and prosper through sophisticated venture capital and proper due diligence conducted by the loan process system at the SBA and at regulated financial institutions. Under no circumstances, however, should the 90% of Americans with $100,000 or less in income, or the 70% of Americans who live from paycheck to paycheck, be targeted for such risky investments.[4] And, under no circumstances, should any startup be able to secure any investments without appropriate verified and stringent determinations as to the income and net worth qualifications of any potential investors.

Most sincerely,

Faith Bautista

Faith Bautista
President and CEO

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[3] At our meeting with the SEC, we will be joined by low-income minority high school students and their teachers from the King-Chavez Neighborhood of Charter Schools who are focusing on financial education and wish to protect their parents form unsavory practices.

[4] Please also note that the SEC proposal seems to confuse income with net worth. That is, it appears that investors with income <u>or</u> net worth greater than $100,000 could contribute as much as 10% of their annual income <u>or</u> net worth.

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